



Senate

General Assembly

January Session, 2005

File No. 522

Senate Bill No. 1230

Senate, April 26, 2005

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE TAXATION OF DAILY RENTAL MACHINERY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-692 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For purposes of this section:

4 (1) "Passenger motor vehicle" means a passenger vehicle, which is
5 rented without a driver and which is part of a motor vehicle fleet of
6 five or more passenger motor vehicles that are used for rental purposes
7 by a rental company.

8 (2) "Rental truck" means a (A) vehicle rented without a driver that
9 has a gross vehicle weight rating of twenty-six thousand pounds or
10 less and is used in the transportation of personal property but not for
11 business purposes, or (B) trailer that has a gross vehicle weight rating
12 of not more than six thousand pounds.

13 (3) "Rental company" means any business entity that is engaged in
14 the business of renting passenger motor vehicles, [or] rental trucks
15 without a driver or machinery in this state to lessees and that uses for
16 rental purposes a motor vehicle fleet of five or more passenger motor
17 vehicles, [or] rental trucks or pieces of machinery in this state, but does
18 not mean any person, firm or corporation that is licensed, or required
19 to be licensed, pursuant to section 14-52, (A) as a new car dealer,
20 repairer or limited repairer or (B) as a used car dealer that is not
21 primarily engaged in the business of renting passenger motor vehicles
22 or rental trucks without a driver in this state to lessees.

23 (4) "Lessee" means any person who leases a passenger motor
24 vehicle, [or] rental truck or machinery from a rental company for such
25 person's own use and not for rental to others.

26 (5) "Machinery" means heavy equipment without an operator that
27 may be used for construction, mining or forestry, including, but not
28 limited to, bulldozers, earthmoving equipment, well-drilling
29 machinery and equipment or cranes.

30 (b) There is hereby imposed a three per cent surcharge on each
31 passenger motor vehicle or rental truck rented within the state by a
32 rental company to a lessee for a period of less than thirty-one days. The
33 rental surcharge shall be imposed on the total amount the rental
34 company charges the lessee for the rental of a motor vehicle. Such
35 surcharge shall be in addition to any tax otherwise applicable to any
36 such transaction and shall be includable in the measure of the sales
37 and use taxes imposed under chapter 219.

38 (c) There is hereby imposed a one and one-half per cent surcharge
39 on machinery rented within the state by a rental company to a lessee
40 for a period of less than thirty-one days. The rental surcharge shall be
41 imposed on the total amount the rental company charges the lessee for
42 the rental of the machinery. Such surcharge shall be in addition to any
43 tax otherwise applicable to any such transaction, and shall be
44 includable in the measure of the sales and use taxes imposed under
45 chapter 219.

46 [(c)] (d) Reimbursement for the surcharge imposed by [subsection
47 (b)] subsections (b) and (c) of this section shall be collected by the
48 rental company from the lessee and such surcharge reimbursement,
49 termed "surcharge" in this subsection, shall be paid by the lessee to the
50 rental company and each rental company shall collect from the lessee
51 the full amount of the surcharge imposed by said [subsection (b)]
52 subsections (b) and (c). Such surcharge shall be a debt from the lessee
53 to the rental company, when so added to the original lease or rental
54 price, and shall be recoverable at law in the same manner as other
55 debts. The rental contract shall separately indicate the rental surcharge
56 imposed on each passenger motor vehicle, [or] truck rental or piece of
57 machinery. The rental surcharge shall, subject to the provisions of
58 subsection [(d)] (e) of this section, be retained by the rental company.

59 [(d)] (e) (1) On or before February 15, 1997, and the fifteenth of
60 February annually thereafter, each rental company shall file a report
61 with the Commissioner of Revenue Services detailing the aggregate
62 amount of personal property tax that is actually paid by such company
63 to a Connecticut municipality or municipalities during the preceding
64 calendar year on passenger motor vehicles, [or] rental trucks or pieces
65 of machinery that are used for rental purposes by such company, the
66 aggregate amount of registration and titling fees that are actually paid
67 by such company to the Department of Motor Vehicles of this state
68 during the preceding calendar year on passenger motor vehicles, [or]
69 rental trucks or pieces of machinery that are used for rental purposes
70 by such company and the aggregate amount of the rental surcharge
71 that is actually received, pursuant to this section, by such company
72 during the preceding calendar year on passenger motor vehicles, [or]
73 rental trucks or pieces of machinery that are used for rental purposes
74 by such company. The report shall also show such other information
75 as the commissioner deems necessary for the proper administration of
76 this section.

77 (2) On or before February 15, 1997, and the fifteenth of February
78 annually thereafter, each rental company shall remit to the
79 Commissioner of Revenue Services for deposit in the General Fund,

80 the amount by which the aggregate amount of the rental surcharge
81 actually received by such company on such vehicles or machinery
82 during the preceding calendar year exceeds the sum of the aggregate
83 amount of property taxes actually paid by such company on such
84 vehicles or machinery to a Connecticut municipality or municipalities
85 during the preceding calendar year and the aggregate amount of
86 registration and titling fees actually paid by such company on such
87 vehicles or machinery to the Department of Motor Vehicles of this state
88 during the preceding calendar year.

89 (3) For purposes of this subsection, in the case of any rental
90 company that leases a passenger motor vehicle, [or] rental truck or
91 piece of machinery from another person and that uses such vehicle or
92 machinery for rental purposes and such lease requires such rental
93 company to pay the registration and titling fees and the property taxes
94 to such other person, the rental company shall include (A) in the
95 aggregate amount of registration and titling fees actually paid by such
96 rental company to the Department of Motor Vehicles of this state, any
97 such registration and titling fees actually paid by such rental company
98 to such other person on such passenger motor vehicle, [or] rental truck
99 or piece of machinery, and (B) in the aggregate amount of property
100 taxes actually paid by such rental company to a Connecticut
101 municipality or municipalities, any such property taxes actually paid
102 by such rental company to such other person on such passenger motor
103 vehicle or vehicles, [or] rental truck or trucks or one or more pieces of
104 machinery.

105 [(e)] (f) Any person who fails to pay any amount required to be paid
106 to the Commissioner of Revenue Services under this section within the
107 time required shall pay a penalty of fifteen per cent of such amount or
108 fifty dollars, whichever amount is greater, in addition to such amount,
109 plus interest at the rate of one per cent per month or fraction thereof
110 from the due date of such amount until the date of payment. Subject to
111 the provisions of section 12-3a, the commissioner may waive all or any
112 part of the penalties provided under this section when it is proven to
113 the satisfaction of the commissioner that the failure to pay any amount

114 required to be paid to the commissioner was due to reasonable cause
115 and was not intentional or due to neglect.

116 [(f)] (g) The Commissioner of Revenue Services for good cause may
117 extend the time for making any report and paying any amount
118 required to be paid to the commissioner under this section if a written
119 request therefor is filed with the commissioner together with a
120 tentative report which shall be accompanied by a payment of any
121 amount tentatively believed to be due to the commissioner, on or
122 before the last day for filing the report. Any person to whom an
123 extension is granted shall pay, in addition to the amount required to be
124 paid, interest at the rate of one per cent per month or fraction thereof
125 from the date on which such amount would have been due without
126 the extension until the date of payment.

127 [(g)] (h) The provisions of sections 12-548 to 12-554, inclusive, and
128 section 12-555a shall apply to the provisions of this section in the same
129 manner and with the same force and effect as if the language of said
130 sections 12-548 to 12-554, inclusive, and section 12-555a had been
131 incorporated in full into this section, except to the extent that any
132 provision is inconsistent with a provision in this section, and except
133 that the term "tax" shall be read as "surcharge".

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	12-692
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FIN *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Revenue Services	GF - Revenue Gain	Less than \$100,000	Less than \$100,000
Department of Revenue Services	GF - Cost	\$75,000	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill is anticipated to result in a revenue gain of less than \$100,000 a year to the General Fund. The estimate is based on the average excess amount annually remitted to the Department of Revenue Services from the motor vehicle rental surcharge.

The bill is also estimated to result in one-time programming costs of \$75,000 in order to integrate the new surcharge system into the DRS computer system.

OLR Bill Analysis

SB 1230

AN ACT CONCERNING THE TAXATION OF DAILY RENTAL MACHINERY**SUMMARY:**

The bill imposes a 1.5% surcharge on the total cost of renting heavy construction, mining, or forestry equipment without an operator for 30 days or less. The new surcharge mirrors the existing 3% surcharge on daily car and truck rentals.

The surcharge applies to machinery rented from a company that is in the business of renting such machinery and has a rental fleet of at least five pieces of machinery in Connecticut. Covered machinery includes bulldozers, earthmoving equipment, well-drilling machinery, and cranes.

The surcharge reimburses the rental company for Connecticut property taxes and Department of Motor Vehicles (DMV) licensing and titling fees paid on the equipment. The company must remit any surcharge amounts it collects that exceed these costs to the Department of Revenue Services (DRS) annually for deposit in the General Fund.

The bill extends to the new surcharge all the administrative, reporting, and collection requirements that apply to the existing 3% surcharge on car and truck rentals.

EFFECTIVE DATE: Upon passage

SURCHARGE COLLECTION

As is the case with the existing car and truck rental surcharge, the bill requires (1) the machinery rental company to collect the surcharge from the renter, (2) the surcharge to be included in the company's sales and use tax receipts, and (3) the machinery rental contract to state the surcharge separately. The surcharge is recoverable in the same way as other debts.

REPORTING AND PAYMENT

The bill extends the existing surcharge reporting and payment requirements to the new surcharge. Thus, machinery rental companies must report to DRS by February 15th annually on the aggregate amounts of personal property taxes paid to towns and registration and titling fees paid to DMV, and the aggregate amount of rental surcharges collected in the previous year on the rental machinery, along with any other information DRS requires. At the same time it files the report, a company must also pay to DRS for deposit in the General Fund any surcharges collected that exceed their annual total property taxes and licensing and titling fees paid.

PENALTY AND ENFORCEMENT

Under the bill, as under current law for the car and truck rental surcharge, the penalty for failure to pay the required excess is 15% of the unpaid amount or \$50, whichever is greater, and 1% interest per month until the payment is made. The bill applies the same refund, audit, deficiency assessment, hearing, and appeal procedures to the new surcharge as already apply to both the existing surcharge and to DRS administration of admissions and dues taxes.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Report

Yea 46 Nay 2